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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,099	03/13/2001	Gayle Marie Frankenbach	8244	2087
27752	7590	07/29/2009		
THE PROCTER & GAMBLE COMPANY Global Legal Department - IP Sycamore Building - 4th Floor 299 East Sixth Street CINCINNATI, OH 45202			EXAMINER NGUYEN, TRI V	
			ART UNIT	PAPER NUMBER
			1796	
			MAIL DATE	DELIVERY MODE
			07/29/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/805,099

Applicant(s)

FRANKENBACH ET AL.

Examiner

TRI V. NGUYEN

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 15-18, 22, 24-53, 56-75 and 77-80 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 15-18, 22, 24-53, 56-75 and 77-80 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/3508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Upon the response on 05/13/09, claims 1-11, 15-18, 22, 24-53, 56-75 and 77-80 are pending. Claims 12-14, 19-21, 23, 54, 55 and 76 are cancelled.
2. Claims 1-11,15-18,22,24-53,56-75 and 77-80 stand rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Frankenbach et al. (US 6,491,840) for the reasons set forth in the office action dated 05/12/08.
3. Claims 1-11,15-18,22,24-53,56-75 and 77-80 stand rejected under 35 U.S.C. 103(a) as obvious over Frankenbach et al. (US 6,491,840) and further in view of "Canadian Advertising Success Stories 1999: Sunlight Laundry Detergent" document for the reasons set forth in the office action dated 05/12/08.
4. Claims 1-11,15-18,22,24-53,56-75 and 77-80 stand rejected under 35 U.S.C. 103(a) as obvious over Frankenbach et al. (US 6,491,840) and further in view of "Indiana Marketing Educators' Update" document for the reasons set forth in the office action dated 05/12/08.
5. Claims 1-11,15-18,22,24-53,56-75 and 77-80 stand rejected under 35 U.S.C. 103(a) as obvious over Frankenbach et al. (US 6,491,840) and further in view of Trinh et al. (US 5,977,055) for the reasons set forth in the office action dated 05/12/08.

Response to Arguments

6. Applicant's arguments filed regarding Frankenbach et al. have been fully considered but they are not persuasive.

The declaration under 37 CFR 1.132 filed 05/13/09 is insufficient to overcome the rejection of claims 1-11,15-18,22,24-53,56-75 and 77-80 based upon the cited references (see above for details) as set forth in the Office action dated 05/12/08.

In the remarks, applicants argue that the rejection under US 6,491,840 is not "by another" as shown by a 132 declaration by one inventor, Gayle Marie Frankenbach. In particular, it seems like applicants are attempting to show attribution with the 132 declaration. It is noted that to show attribution, the declaration must provide an uncontradicted, unequivocal statement about the inventorship of the presently claimed invention with respect to what was disclosed but not claimed in the other reference; MPEP 716.10 states "[...] it is incumbent upon the inventors named in the application, in response to an inquiry regarding the appropriate inventorship under 35 U.S.C. 102(f) or to rebut a rejection under 35 U.S.C. 102(a) or (e), to provide a satisfactory showing by way of affidavit under 37 CFR 1.132 that the inventorship of the application is correct in that the reference discloses subject matter derived from the applicant rather than invented by the author, patentee, or applicant of the published application notwithstanding the authorship of the article or the inventorship of the patent or published application. In re Katz, 687 F.2d 450, 455, 215 USPQ 14, 18 (CCPA 1982)"; thus the latest 132 declaration filed on 05/13/09 is not found persuasive and compliant since the declaration does not provide that uncontradicted, unequivocal statement. For example, at paragraph 3, Gayle Marie Frankenbach states: "The subject matter of one or more of the claims of the present application including but not limited to 1-11, 15-18, 22, 24-53, 56-75, and 77-80 which is disclosed but not claimed in U.S. Patent No. 6,491,840 was conceived and/or invented by me."

The 132 declaration is contradicted by other documents in the application – e.g. the Bib Data Sheet lists 12 other co-inventors. Contrary to her statement in the declaration, Ms. Frankenbach is not the sole inventor of the present claims.

Furthermore, The 132 declaration also found to be equivocal: inventor Frankenbach states that one or more of the claims were invented by her, but it is not clear which ones.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRI V. NGUYEN whose telephone number is (571)272-6965. The examiner can normally be reached on M-F 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. V. N./
Examiner, Art Unit 1796
July 29, 2009

/Lorna M Douyon/
Primary Examiner, Art Unit 1796